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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212231
Party	Plaintiff Dragon Bleu (SARL)
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DRAGON BLEU (SARL),

Opposer and Counterclaim  
Respondent,

v.

VENM, LLC,

Applicant and Counterclaim  
Petitioner.

Opposition No. 91212231

Application Serial No. 85/848,528

**OPPOSER / COUNTERCLAIM-RESPONDENT’S ANSWER**

Dragon Bleu (SARL), Opposer and Counterclaim Respondent (“Opposer”), hereby answers the Counterclaim brought by Applicant, Venm LLC (“Applicant”) as follows:

1. Paragraph 40 of Applicant’s Counterclaim does not require a response.
2. Opposer admits that Application Serial No. 85/848,528 identifies “dance costumes” in International Class 25. Opposer lacks knowledge or information sufficient to form a belief as to the truth or accuracy of the remaining allegations in paragraph 41 of Applicant’s Counterclaim and on that basis denies the same.
3. Opposer admits the allegations in paragraph 42 of Applicant’s Counterclaim that it applied for registration under Section 66(a) of the Lanham Act and that its registration is less than five years old. Opposer denies the remaining allegations in paragraph 42.
4. Opposer admits the allegations in paragraph 43 of Applicant’s Counterclaim.
5. Opposer admits the allegations in paragraph 44 of Applicant’s Counterclaim.
6. Opposer denies the allegations in paragraph 45 of Applicant’s Counterclaim.

7. Opposer denies the allegations in paragraph 46 of Applicant's Counterclaim.
8. Opposer admits the allegations in paragraph 47 of Applicant's Counterclaim inasmuch as applications for registration under Section 66(a) do not require a demonstration of use in U.S. commerce.
9. Paragraph 48 of Applicant's Counterclaim does not present a cogent allegation and on that basis Opposer denies the same. Further, Opposer is without sufficient knowledge of the meaning of the phrase "actual or technical use."
10. Paragraph 49 of Applicant's Counterclaim does not present a cogent allegation and on that basis Opposer denies the same. Further, Opposer is without sufficient knowledge of the meaning of the phrase "technical use."
11. Opposer denies the allegations in paragraph 50 of Applicant's Counterclaim.
12. Opposer denies the allegations in paragraph 51 of Applicant's Counterclaim. Further, paragraph 51 misstates the elements of a *prima facie* case for trademark abandonment.
13. Opposer denies the allegations in paragraph 52 of Applicant's Counterclaim. Further, Opposer is without sufficient knowledge of the meaning of the phrase "qualifying use."
14. Opposer denies the allegations in paragraph 53 of Applicant's Counterclaim.
15. Opposer denies that Applicant is entitled to the relief sought in paragraph 54 of Applicant's Counterclaim.
16. Opposer admits the allegations in paragraph 55 of Applicant's Counterclaim that it applied for registration under Section 66(a) of the Lanham Act and that its

registration is less than five years old. Opposer denies the remaining allegations in paragraph 55.

17. Opposer admits the allegations in paragraph 56.

18. Opposer admits the allegations in paragraph 57.

19. Opposer denies the allegations in paragraph 58.

20. Opposer admits the allegations in paragraph 59 inasmuch as applications for registration under Section 66(a) do not require a demonstration of use in U.S. commerce.

21. Paragraph 60 of Applicant's Counterclaim does not present a cogent allegation and on that basis Opposer denies the same. Further, Opposer is without sufficient knowledge of the meaning of the phrase "actual or technical use."

22. Opposer admits the allegation in paragraph 61 of Applicant's Counterclaim that its website displays and offers for sale "sandals." Opposer denies the remaining allegations in paragraph 61.

23. Opposer denies the allegations in paragraph 62 of Applicant's Counterclaim.

24. Opposer denies the allegations in paragraph 63 of Applicant's Counterclaim. Further, paragraph 63 misstates the elements of a *prima facie* case for trademark abandonment.

25. Opposer denies the allegations in paragraph 64 of Applicant's Counterclaim. Further, Opposer is without sufficient knowledge of the meaning of the phrase "qualifying use."

26. Opposer denies the allegations in paragraph 65 of Applicant's Counterclaim.

27. Opposer denies the allegations in paragraph 66 of Applicant's Counterclaim.

28. Opposer denies that Applicant is entitled to the relief sought in paragraph 67 of Applicant's Counterclaim.
29. Opposer denies the allegations in paragraph 68 of Applicant's Counterclaim and denies that Applicant is entitled to the relief sought in paragraph 68.
30. Opposer lacks knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations of paragraph 69 of Applicant's Counterclaim and on that basis denies the same.
31. Paragraph 70 of Applicant's Counterclaim does not require a response.

### **AFFIRMATIVE DEFENSES**

Opposer states the following affirmative defenses. It reserves the right to assert additional affirmative defenses that are revealed and supported by the evidence.

#### **FIRST AFFIRMATIVE DEFENSE** **Failure to State a Claim**

The Counterclaim, on one or more counts set forth therein, fails to state a claim upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE** **Waiver**

Each of the purported claims set forth in Applicant's Counterclaim is barred in whole or in part by the doctrine of waiver.

#### **THIRD AFFIRMATIVE DEFENSE** **Acquiescence**

Each of the purported claims set forth in Applicant's Counterclaim is barred in whole or in part by the doctrine of acquiescence.

**FOURTH AFFIRMATIVE DEFENSE**  
**Estoppel**

Each of the purported claims set forth in Applicant's Counterclaim is barred in whole or in part by the doctrine of estoppel.

For the reasons stated above, Opposer prays that the Board:

1. Deny the relief sought in Applicant's Counterclaim; and
2. Sustain the Opposition, that Application Serial No. 85/848,528 be rejected, and that the mark applied for therein be refused registration.

Respectfully submitted,

DRAGON BLEU (SARL)

By its attorneys,



Dated: May 26, 2015

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CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2015, this **Opposer / Counterclaim-Respondent's Answer** was served on Applicant by delivering a true and correct copy thereof to Applicant's counsel by depositing same with the United States Postal Service, postage pre-paid, via first class mail, addressed to:

Konrad Sherinian  
THE LAW OFFICES OF KONRAD SHERINIAN, LLC  
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UNITED STATES



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Aaron Silverstein

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via ESTTA on date shown below to the United States Patent and Trademark Office.



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Aaron Silverstein

Date: May 26, 2015